

Virginia Communication Tax Analysis: Theory versus Practice

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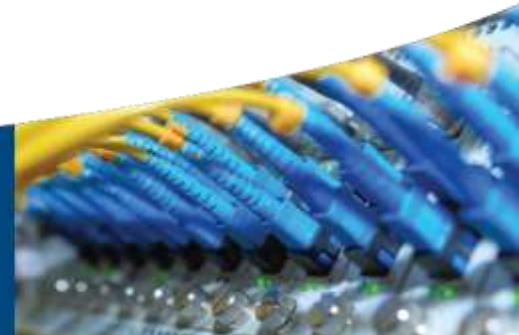


Telecommunications Law



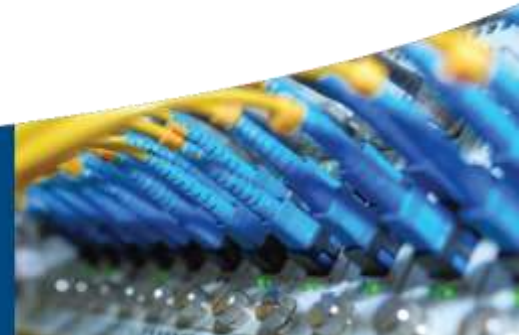
Summary of VA Legislation

- Adopted in 2006; Effective in 2007
- Replaces following locally collected taxes and fees with single state collected tax:
 - Landline and wireless telephone
 - Cable television utility tax
 - Cable franchise fee
 - Local E-911 wireless fee
- Excludes from state tax:
 - State E-911 wireless fee
 - State telephone right-of-way fees
 - “Information Services” and Internet access service
 - Advertising sales revenue and various customer fees



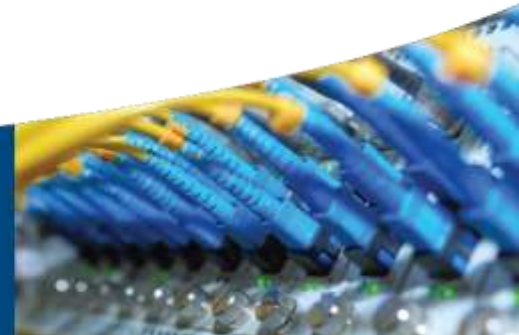
Summary of VA Legislation

- Distribution to local governments calculated by totaling all local communications taxes collected in 2006 and determining individual local government's 2006 percentage of total
- Later amendments enabled communities to correct errors in 2006 tax reporting



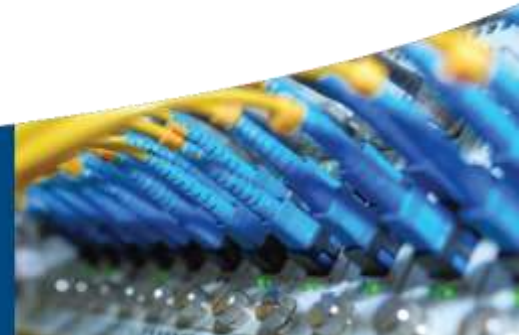
Key VA vs. MD Distinctions

- Maryland Local Governments own their public rights-of-way and have greater right-of-way obligations
 - Virginia Local Counties do not own their public rights-of-way (except for Henrico and Arlington Counties)
 - VDOT manages PROWs and collects separate per line telecom right-of-way fees
- Maryland Local Governments have charter and taxing authority
 - Virginia local governments only have express powers and those necessarily implied



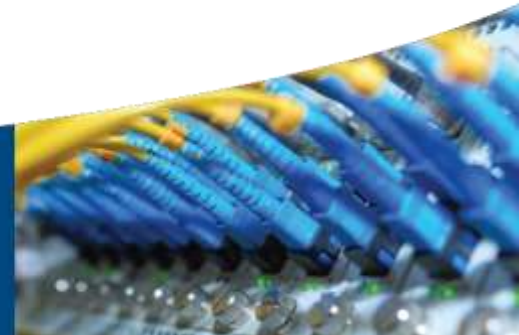
VA Implementation Challenges

- Distribution percentage was based on FY2006 revenue collection
 - No subsequent true-up performed
 - Counties that had little to no fee or tax collection in 2006 now pay 5 percent but receive share of State tax based on 2006 level of taxation
 - Not clear whether state collects localized revenue collection data
 - Negative revenue impact when adjustments are made to correct 2006 errors or revised tax demands



VA Implementation Challenges

- No local revenue certainty
 - **Refunds of improperly collected statewide revenue have significant local revenue impact**
- Inability to understand what is happening at the local level
 - No auditing or reporting of local revenue collection
- No identifiable tax trends



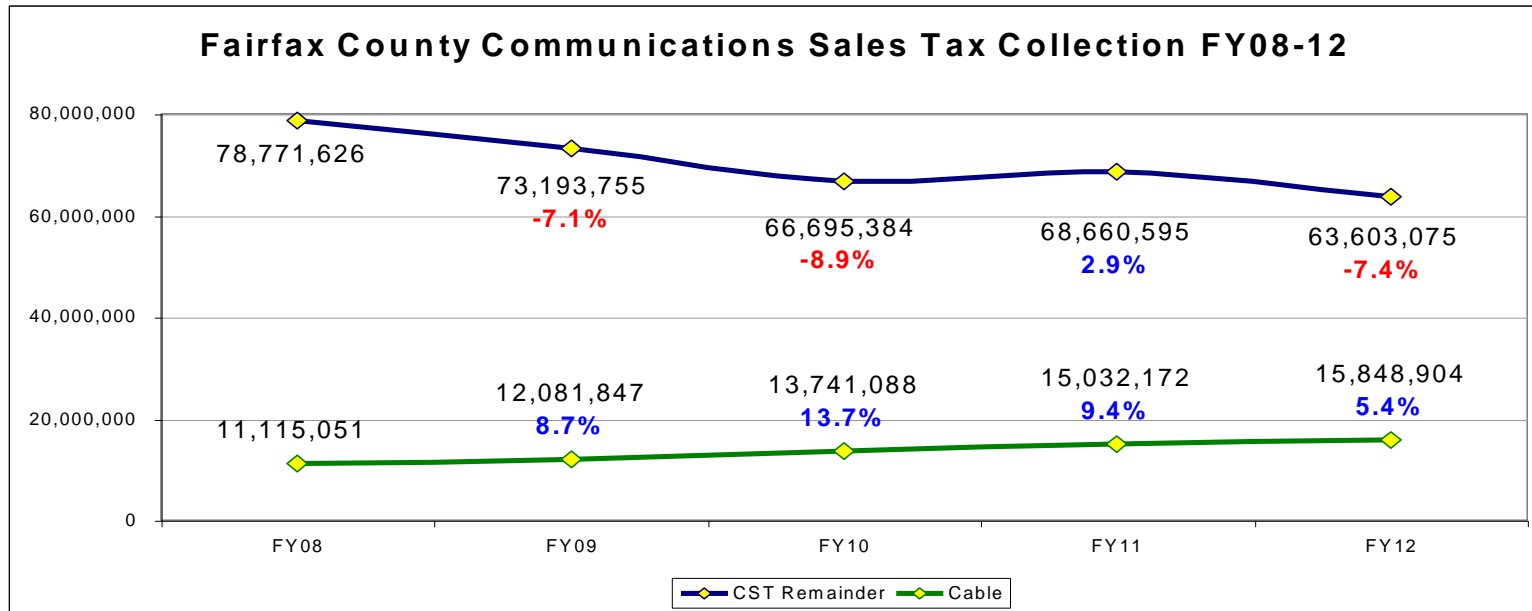
Virginia Revenue Sample Comparison

2006 Local Revenue: Pre-Communications Sales Tax								
Locality	Local Utility Tax on Phone	Local E-911	Gross Receipt tax	Local tax on cable	Cable Franchise Fee	Video Excise Tax	Total Per Locality	Distribution Percentage
Arlington County	-	4,756,682	1,087,955	-	2,279,185	-	8,123,822	1.7989%
Fairfax County	56,074,086	19,508,084	-	-	9,878,919	-	85,461,089	18.925%
Fairfax City	1,891,064	333,232	-	-	232,628	-	2,456,924	0.5440%
Source: Virginia Department of Taxation Entire dataset of 288 localities totaled \$451.6 million.								

Under Communications Sales Tax					
Locality	FY2007	FY2008	FY2009	FY2010	FY2011
Arlington County	2,391,969	8,544,499	8,084,023	7,677,471	7,965,227
Fairfax County	25,163,077	89,886,552	85,042,423	80,765,549	83,692,767
Fairfax City	723,414	2,584,150	2,444,888	2,321,929	2,408,959
Communications Sales Tax Distributions, FY 2007-2011, available at http://www.tax.virginia.gov/site.cfm?alias=AnnualReports					



Fairfax County Case Study



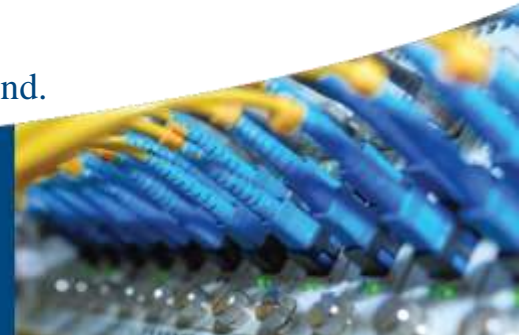
- Cable revenues increased 43 percent between FY2008 and FY2012
- Remaining CST telephone and satellite revenues *decreased 19 percent* over same period



Fairfax County FY13 Budget Excerpt

Since its inception, this statewide tax has been fraught with errors in under-reporting by some providers and over-collection by others.

- The Commonwealth found that revenue during FY 2007 was lower than anticipated due to errors in reporting the tax by two large communications providers which resulted in an under-collection of the statewide tax during FY 2007 and part of FY 2008. These providers remitted back taxes and corrected the errors in FY 2008.
- In FY 2009, the Virginia Department of Taxation verified that taxes totaling \$21.3 million statewide has been collected by service providers from entities that should have been tax exempt. Therefore, refunds were made over four months spanning FY 2009 and FY 2010. Fairfax County's share of the refunds was \$4.0 million. Due in part to the refunds,
 - Fairfax County's receipts fell 3.9 percent in FY 2009...
 - Fairfax County's receipts fell 3.2 percent in FY2010.
 - FY2011 collections declined another 2.6 percent.
- FY2012 receipts are projected to fall once again, as a \$14.3 million statewide refund was processed relating to the erroneous collection of taxes on data services by a wireless provider. The County's share of this refund is \$2.7 million. During the fall 2001 revenue review, the FY 2012 Communications Sales Tax was reduced \$4.3 million based on FY 2011 actual receipts and the refund noted above.
- FY 2013 revenue is expected to remain at the FY 2012 level absent the refund.



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